
UTAH LABOR COMMISSION

**MARTHA D. CASPER, Widow of
C. LYNN BARRACLOUGH, Deceased,**

vs.

**ANDRUS TRANSPORTATION and
NATIONAL UNION FIRE INSURANCE,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 97-0886

Martha D. Casper,¹ widow of C. Lynn Barraclough, asks the Utah Labor Commission to review Administrative Law Judge George's denial of her claim for dependent's benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Barraclough suffered a fatal heart attack on November 19, 1996, while driving truck for Andrus Trucking Services. On October 17, 1997, Ms. Casper filed an Application For Hearing with the Commission to compel Andrus Trucking Services and its workers' compensation insurance carrier, National Union Fire Insurance (referred to jointly as "Andrus" hereafter) to pay dependent's benefits. Ms. Casper's claim is based on the theory that her husband's heart attack was work-related.

Judge George held an evidentiary hearing in this matter on September 11, 2000. On July 21, 2003, he denied Ms. Casper's claim on the grounds that Mr. Barraclough's work at Andrus was neither the legal cause nor the medical cause of his heart attack. Ms. Casper filed a motion for review of Judge George's decision. On review, the Commission remanded the claim to Judge George so that a medical panel could consider the medical aspects of Ms. Casper's claim.

On July 18, 2005, after receiving the medical panel's report, Judge George again denied Ms. Casper's claim on the grounds Mr. Barraclough's work was not the medical cause of his heart attack. On August 1, 2005, Ms. Casper requested review of Judge George's decision. Specifically, Ms. Casper alleged that: 1) Andrus's admissions during discovery established Ms. Casper's right to benefits; 2) Mr. Barraclough's work at Andrus was both the legal and medical cause of his heart attack; 3) Judge George failed to properly consider Ms. Casper's objections to the medical panel report; and 4) any doubt as to the facts or law must be resolved in favor of awarding benefits to Ms. Casper.

On August 17, 2005, Andrus filed its reply to Ms. Casper's motion for review. On

¹ Previously known as Martha Barraclough.

November 18, 2005, Ms. Casper submitted a reply memorandum which for the first time requested that the review of Judge George's decision be conducted by the Appeals Board, rather than by the Commissioner.

FINDINGS OF FACT

The Commission adopts Judge George's findings of fact. As material to the issues presented by Ms. Casper's motion for review, the facts can be summarized as follows.

Mr. Barraclough began work as a truck driver for Andrus on August 30, 1996. For the first several weeks, in order to train Mr. Barraclough, Andrus assigned him to drive with another experienced driver. After successfully completing that training, he was given three days off and then scheduled to drive solo beginning on November 19, 1996.

Mr. Barraclough reported for work as scheduled on November 19, 1996. He was assigned a truck and left the Andrus yard, driving north on I-15. Approximately, 20 minutes later, he reported by telephone that he was suffering chest pains and was returning to St. George to go to his doctor. On the return trip, Mr. Barraclough lost consciousness. His truck came to a stop off the side of the freeway. Andrus personnel were at the scene immediately and Mr. Barraclough was taken by ambulance to a local hospital. Mr. Barraclough died two days later.

The medical evidence establishes that Mr. Barraclough suffered from a preexisting heart condition that led to myocardial infarction and cardiac arrest on November 19, 1996, which resulted in cerebral anoxia and death. The medical evidence also establishes that neither Mr. Barraclough's underlying heart disease nor the heart attack that immediately preceded his death was medically caused or related to his employment.

DISCUSSION AND CONCLUSION OF LAW

As a preliminary matter, the Commission notes that Ms. Casper has requested in her reply memorandum that this review be conducted by the Labor Commission Appeals Board, rather than by the Commissioner. However, §34A-2-801(3)(c) of the Utah Workers' Compensation Act specifically requires that any such request must be made as part of the initial motion for review. Because Ms. Casper's motion for review did not designate the Appeals Board, this review will be conducted by the Commissioner.

Ms. Casper's first argument on review is that Andrus's admissions during the prehearing discovery process establish that Ms. Casper is entitled to benefits. The Commission has already considered and rejected this argument in its previous Order Of Remand. Specifically, the Commission ruled that "the connection between Mr. Barraclough's work and his death should be decided according to the evidence actually presented by the parties." The Commission hereby reaffirms that ruling.

As her second argument, Ms. Casper maintains that Mr. Barraclough's work at Andrus was **both** the legal and medical cause of his heart attack. With respect to legal causation, and in light of Mr. Barraclough's preexisting heart condition, Ms. Casper must prove that Mr. Barraclough's

exertions at Andrus were unusual or extraordinary when compared to the typical exertions encountered in modern nonemployment life. *Allen v. Industrial Commission*, 729 P.2d 15, 26 (Utah 1986). The Commission finds no evidence that Mr. Barraclough's work at Andrus meets this standard. Nor does the preponderance of evidence establish that Mr. Barraclough's work for Andrus was the medical cause of his heart attack. To the contrary, the more persuasive medical opinion of record, including the impartial medical panel's report, establishes that Mr. Barraclough's work did not cause his heart attack. In light of the absence of legal and medical causation, Mr. Barraclough's death is not compensable under the Utah Workers' Compensation Act.

Ms. Casper also contends that her objections to the medical panel's report were not properly considered. Ms. Casper lists those objections as: 1) Judge George's improper directive to the panel to "find in certain ways"; 2) failure to submit conflicting medical evidence for the panel's consideration; 3) lack of medical support of the panel's conclusions; and 4) denial of Ms. Casper's request for a hearing on her objections to the panel report. After reviewing the record, the Commission finds no merit to these objections. Judge George's questions and instructions to the medical panel were appropriate and the panel had access to Mr. Barraclough's underlying medical records so that it could reach a fully informed opinion. Under these circumstances, Judge George properly exercised his discretion by declining to convene a hearing on Ms. Casper's objections.

Finally, Ms. Casper argues she is entitled to have "the facts, law and any doubt rising therefrom resolved in favor of awarding benefits." While it is true that the Workers' Compensation Act is to be liberally construed in favor of compensability, applicants for workers' compensation benefits must still meet the Act's statutory criteria for compensability. For the reasons already stated, the Commission has determined that Mr. Barraclough's heart attack did not arise out of his employment. Consequently, the Commission concludes that Ms. Casper has not met her burden of proof and that she is not entitled to dependents' benefits.

ORDER

The Commission affirms Judge George's decision. It is so ordered.

Dated this 21st day of March, 2007.

Sherrie Hayashi
Utah Labor Commissioner